G. R. S. IX-5]

Previous references. 1897-98

~~191~~ .

(L-R)

File No. 98.

Serial Nos. 1-14.

Later references.

L.R. 316-01-02

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1614

Major ~~Part~~ B for May 1900

SUBJECT.

Appeal against the Bangalore Dy. Commissioner's order re his claim to certain survey nos. in Dodd a Kadasandra Kankanadalli Taluk

Indexed by Countermarked Lk.

Before the Government of Mysore.

Appeal No. 79 of 1897-98.

Appellant. Vs. ~~Respondent.~~

Patel Appaji Gauda.

Appeal against the order of the Commr of Bangalore rejecting appellant's claim to a part of Survey No 234 of ~~Dodda~~ Sadenhalli in the Kankanhalli Taluk.

Argued by the 9th August
Advt for respondent
Judt 29/7/98

9406 Decree reversed
appeal accordingly
Each party the costs
of the appeal
of the amended Rs 225-
& the costs in the lower
Court & Rs 2 the costs here.
Each party to bear
their own costs
of the appeal and counter-
claim as ordered
by Court in
the

Some other items
Rec'd & entered
in Register

30/7/98

Commr of the Mysore
29 July 98

Appeal petition No
578 of 12-8-97

Appellant— Appaji
Gowda, Patel of
Doddacadenahalli,
Kanakanahalli Taluq,
Bangalore district.

This is an appeal
against order No 88 of
6-7-97 of the Dy. Comr.
of the Bangalore distrct.
The order is as follows—
" The Maji No 225 to
which you wish the
entered as the khatedar
is clearly found to be
within the water-spread
area of the tank, to
have never been given
(for any man) before,
and what is more
to have never been
cultivated at all.
The Kharab No 234

lying within the water-
spread area of the
tank cannot be —
given to you."

Patilache Gowda 28-6-92 — 07
& other ryots of the
above village submitted
the following petition
to the Amildar — that
Inaji no 225 which should
have belonged to the
bed of the tank ~~bed~~
was fenced by Appaji
Gowda causing danger
to the tank; that the land
belonged to the Govt., & that
Appaji Gowda should
be dispossessed of it.

The above petition
was referred to the Shekdar
who reported as follows —
That according to the
statement ~~of~~ of Appaji Gowda
bunds were caused to
be put up for his land
during the Survey settlement; &
that according to the
statements of the opponents
of Appaji Gowda, the
land was included
in the ~~tank~~ bed of the
tank; & that the bories of

Note – In the Order of the Bombay it is stated that the land was included in the bed of the tank & ~~therefore~~ should not be cultivated. – Vide – (4)
Vide – slips – (4) in the second Serial.

Pursuant to Serial No 4 of 1897 & the Order of 1892 of the Bombay Govt. ~~the~~ were produced by Govinda Gowda the elder brother of Appaji Gowda to prove that the land was not included in the bed of the tank.

(5) 7 — 25 – 1 – 92

Govinda Gowda again submitted the following petition to the Amildar — that Appaji Gowda ~~had~~ again fenced the land which was called by the Jamabandi officer to be a part of the bed of the tank in 1873 & that the land might be given to him for the purpose of pasturing cattle for Rs 10

(6) 7 — 23 – 1 – 93

Appaji Gowda also submitted the following petition to the Amildar — that he was a Kadim occupant of Survey No 225 lying in the bed of the tank, that during the Survey settlement

the land was not properly measured on the mis-representation of his opponents; that the land had been in the enjoyment of his family from 1934-35; that in 1866-67 it was decided by the Dy. Comr that 5 Khandis 13 Rodis of land belonged to the petitioner; and that bands might be put up for the extent of land settled by the Dy. Comr in 1866-67.

24-5-93 —— (8)7

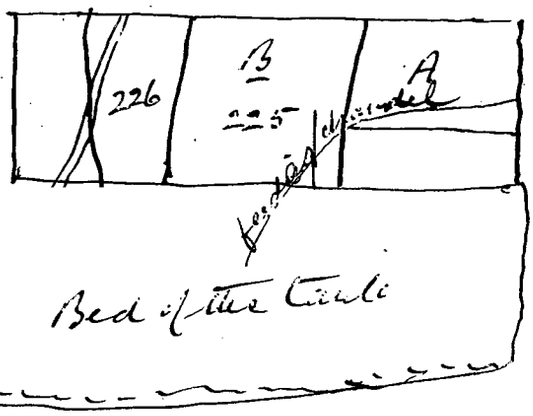
There on the Amildar submitted the following memo to the Dy. Comr - that in Dodderadamahalli there were two parties, one was headed by Veerabhadra Gowda & the other by Pallabolegowda; that Appaji Gowda stated that Maji no 225 was included in the bed of the tank on the misrepresentation of his opponents; that in support of his statement the copies of Pimaishi Patti of 1866 & the order of the Dy. Comr no 304 of 1868 were produced

Vide - (4 & 14) in the second part.

by him & that the extract of the municipality Patti of 1873-74 & two more papers were produced by Pottiboleyanda also to prove that his statement was true; and the disputed place was inspected by him (with Panchayat) when it was observed that Appaji Gowda had fenced his No 225; that the Agiment of Appaji Gowda said that B was not No 225 but that A was 225 & that Appaji Gowda had encroached upon B; but that B was fit for garden & did not belong to the bed of the tank; that A was not fit for cultivation that towards the West of B. there were no bunds put up; that on examining the records produced by both the parties & the Panchayat Patti of 1867, it was ascertained that A was never under cultivation;

Note - The Engineers Note that Encroachments Should not Cultivated in land in the bed of the tank.
Vide — (3, 4 2 2)

Vide — (8) - 7



and that B was under
cultivation; that on the
~~occasion~~ occasion ——
increased Kadayen
was collected from Appaji
Gowda on account of
the increase of produce
in B; that No 226 which
~~was~~ was encroached
upon by Appaji Gowda
was separated from
No 225; that the records
produced by the Tahsildar
were examined; but
that the Taheran land could
not be identified; that
the complaint said that
the land to be vacated
by him was No 226. that
B i.e No 225 was in the
possession of Appaji Gowda
did not seem to be
a portion of the water-spread
area of the tank; that
if the land were really
a portion of the water-spread
area the complaint would
have resigned the land
of his own accord lest
he would be put to loss;
that the complaint wished
to have the land demarcated,
that the complaint might
be asked to execute a

mutedalika to the effect that he would not put any obstruction to the feeder of the tank & then ~~he~~ might be allowed to demarcate the land.

(7)/7 — 27-6-93

The subdivisional Officer thereon ~~ordered as~~ passed the following order — ' This dispute was decided so long ago as 1868. The revival of it now seems to be in consequence of the survey bands recently put up excluding land of No 225. Pending the survey settlement — Abhaji Gowda's possession of No 225 cannot be disturbed.'

(13)/7 — 16-6-93
(12) — 17-6-93
(14)/7 — 19-7-93

Patasha Gowda & other ryots ~~[illegible]~~ again submitted three petitions to the Amildar. They are substantially the same & are to the following effect — that a portion of ~~[illegible]~~ water-spread area of the tank was encroached by Abhaji Gowda

and fenced by him;
that there was a record
of 1872-73 to show that
the land was a part of
the bed of the tank; but
that in spite of this
the land was included
in the Talerar Taluka
& was settled by the
Jamabandi Officer
to have belonged to
Appaji Gowda; but that
Naji No 225 belonged to
the bed of the tank and
did not belong to Appaji
Gowda; & that by allowing
Appaji Gowda to denudate
the land danger would
be caused to the tank.

When the above petitions 31-8-73-(15)7
were referred to the
Amildar, he reported to the Dy. Collr
as follows — That he
inspected the disputed
place personally; that
to the North of the disputed
place there was a Nalla
path (Ld Sd); that the land
beyond the path was upon
belongs belonged to the
bed of the tank; that the
Ryots said that water

would approach & sometimes submerge the path when the tank would be full; that Nos 225 & 226 would be ~~lying~~ close to the tank; that the land fenced by Appaji Gowda would seem to fill the tank with silt, that the ryots asserted that in the survey settlement the disputed land was included in the bed of the tank, & that the said statement seemed to be correct.

The Amildar thereon was ordered not to give sagavali chit to Appaji Gowda, ~~& to bring up the case during the time of Jamabandi~~ and to submit the records of the case at the time of Jamabandi

(18) — 15-3-74

Meanwhile the deposition of Shambhog Narasingrao was taken down by the Amildar in connection with the case. The deposition is as follows — that there

was a piece of land to the north of 224; that it was bounded on the East by Ramnagowda Bolegowda's land of No 215, on the west by the disputed No 225, on the South by No 224, and on the north by a path leading to Chikkiacadenahalli; that the land was unoccupied (Becharakh); that even in Khelwar Pahani no number had been given to the land, and that the extent of the land was about 3 Kolages.

Thereon the Jamabandi Officer passed the following order — that the land was inspected by him on the 15th March; that the land fenced by Appaji Gowda was not No 225; that the land situated to the east of the land fenced was No 225 & belonged to Government; that by the connivance of the Shanbhog the land seemed to have been un-

27-4-94 — (17)7

Vide — Order No 37 of 25-4-94

upon
erected, by Appaji Gowda,
that the disputed
place was one half of
No 226; that the latter
number belonged to the bed of
the tank; that for
the very reason it was
classed as Bangar;
that in place of this land
Bolegowda was given
No 221 below the tank;
that the above facts
were clearly entered
in Aval number
accounts of Pardhani
Year; that besides No
225 was dry & was
not fit for garden
or wet cultivation; that
the fact was also clearly
mentioned in the
Aval number accounts
of Sowmya & Pardhani
Years; that when the
land was inspected by
him the existence of
weeds & other plants
proved that it was a
portion of the water-
spread area of the
tank; that besides there

X (852-53)

(850-50)

were relics of old fence; that these facts showed clearly that the disputed land was not 225 but only a half portion of 226; that Appaji Gowda had no reason to enter upon the land, that No 225 was proved from Shanbhog's accounts to be immemorial waste; that No 226 was included in the bed of the tank during survey settlement with proper bunds; and therefore the disputed place belonged to the bed of the tank & that Appaji Gowda had no business to enter upon the land.

The above order was intimated to Appaji Gowda through the Mahalkar.

Patel Appaji Gowda 12-9-14—(24) 7
appealed to the Dy. Comr against the above order. He stated as follows—

That Inaji No 225 was in the enjoyment of the petitioner; that on the complaint of his opponents

bands were not put-
up for his land during
Survey settlement; that
the petitioner applied to
the Amildar to put-
up bands for his land;
that Mr Raghunatha Rao
decided that the possession
of the land should not
be disturbed from the
petitioner; that in ac-
cordance with the above
order the petitioner was
in the enjoyment of the
land; that on the mis-
representation of his
opponents Mr Narasimha
Iyengar decided without
proper enquiry and
without taking any de-
position from the petitioner
that No 225 was a part
of No 226 & that the
petitioner had no
right to the land; that
in accordance with
the latter order the
petitioner had been
asked to give up the
land in his possession;
that therefore ~~that~~ the
order might be cancelled

Thereon the Dy. Comm^r called for the records 15

The Amildar submitted the records, required with his following report— 4-6-46 (33/2) 7

That he ~~the D.~~ inspected the disputed place; that it was true that Appaji Gowda had encroached upon the bed of the tank & had fenced it; & that he refused to remove the fence.

Meanwhile Patte- 1-6-46
bole Gowda submitted the following petition to the Amildar— That Appaji Gowda encroached upon the bed of the tank & cultivated it though he was a Patel. & that his conduct should be enquired into.

Appaji Gowda (38) 7
produced the following records in support of his case.

(1) Copy of the report from the Amildar of Kanakanahi to the Dy. Supt. Bangalore district, no 304 dy 10-1-1860 in which the Amildar

after thorough investigation
states that the land in
question namely No 225
belongs to Veerabhadrappa Gowda
(Veerabhadrappa Gowda & Athappa
Gowda are brothers).

(2) Order No 187 of 25th
January 1868 from the
Dy. Supt. of Bangalore
district confirming the
finding of the Amildar.

(3) deposition of Thimbhoy
Subbarayappa at
Sadenahalli ~~confirming~~ stating
that No 225 belongs to
Veerabhadrappa Gowda.

(4) depositions of Kale
Gowda, Muddanna Gowda
& others. stating that they
could not identify No 225
but that Veerabhadrappa Gowda
had encroached upon
certain water-shed lands.

(5) Report No 487 of 29th
April 1868 from the Amil-
dar of Kankanahalli
to the Dy. Supt. Bangalore
district, stating that
from enquiries made
he has learnt that the
said Veerabhadrappa Gowda
has been in the possession

and enjoyment of it no 225
from a very long time
& that it was therefore
not possible to deprive
him of the said land.

(6) Judicial Patti of 28th
Nov. 1867

(7) Memo submitted by
the Amildar of Kankanahalli
by Mr S. Krishna Rau
in May 1893, stating
that from enquiries made
he has come to the con-
clusion that no encroachment
has been made & that
the land belongs to Nijapa
Gowda & that he has
been in possession of
it from a very long
time.

(8) One Kulkarni Lakshta
on which the Jamabandi
Officer, Mr Rajamallan
Rau has passed the following
order on 27/6/93 "This
dispute was disposed of
so long ago as 1868. The
Record of it now seems
to be in connection with
the Survey Lands recently
put up excluding land

no 225. Pending the
Survey settlement, Appaji
Gowda's possession of
no 225 cannot be
disturbed.

(9) Deposition of Bandiru
Narasingappa stating
that the land bounded
on the east by land
no 215, on the west by the
disputed land no 225,
on the south by no 224,
and on the north by
a lane, is Sarkar
banjar.

(10) Situalvar Jhadati
Patti of the year 1805-9

(11) Some old Pattas

Vide (38). 28-1-97

Thereon the Dy
Comr passed the following
order - 'After reading
the record I think that
the Rajmundra Sub's
order of 27-6-93 is
correct. The finding
page 2 his statement
is confirmed by the
evidence, that Appaji
Gowda has long been
in possession of the

land in dispute. There are no reasons to disturb his enjoyment. In supercession of the subsequent order of 25-4-94 by Mr. Asst. Comr Karasimha Iyengar, I direct that the land be left in Appaji Gowda's enjoyment as heretofore."

With reference to the above order the Amildar reported as follows — That the land mentioned by the petitioner was No 225; that the land was a portion of S. No 210 comprising 25 guntas; that the disputed land was the Kharab S. No 234 & part of the bed of the tank; that therefore it was not fit to be given for cultivation; that the settlement accounts seemed to be correct; that the map of No 225 of Kolebele Registration was the Petitioner contained originally 7 guntas & then 18 guntas were added to it. making it 25 guntas that No 225 was 7 guntas separate

(34) 7
21-5-97

from S. no 234, that the assertion of the petitioner that S. no 234 was his, could not be believed, that since S. no 234 was the bed of the tank, fit for Puniji cultivation, and close to his land with seedlings thereon, that the petitioner wanted to appropriate it & that the land could not be given to him as it was the bed of the tank.

A That the land mentioned by the petitioner was not to be found in the map (Vide (10)7)

On the receipt of the above report the Dy. Com.r ordered as follows — "Under these circumstances my order dt 28-1-97 is modified — The land in question cannot be granted to any body, as it is the bed of the tank.

(Mr. V N Narasimmayya)

12-8-97

Ahaji Gowda has appealed against the above order of the Dy. Com.r on the following grounds —

1 That Ahaji no 225-

has been in the enjoyment of the appellant for the last 25 years.

2 That during the S. settlement, owing to the misrepresentation of the enemies of the appellant bands were not put up for his land.

3 That the land was in the enjoyment of the appellant, is borne out by the following —

(a) Report no 30 of 10-1-1868 of the Amildar of Kanakanahalli to the Dy. Supt. of Bangalore. Vide — (19)7

(b) Order no 187 of 29-1-1868 from the Dy. Supt. of Bangalore confirming the finding of the Amildar. Vide — (17)7

(c) The Pimaishi Patti of 28-11-67 showing that the land was in the enjoyment of the appellant. Note — It seems to be Ajamaishi Patti — Vide — (11)7 in the second Series.

(d). Amildar's memo & Takrar Tachta containing Raghunatharao's order Vide (7 and 8)7

4 That the Dy. Comr has given two orders to the same petition of 12-9-54

5 That the case was settled in 1867 and that the enquiry of the case is based on malicious representation of the opponents of the appellant.

That on the above grounds the appellant prays that the order of the Dy. Comr. may be cancelled & Pajé No 225 may be left in his possession with bands put up.

A note of the papers of 1866, 1867 & 1868.

17 f 7 24-4-66

Report No 187

The report of the Amildar of Kankavali is to the following effect — That No 225 has been in the enjoyment of Sotepovda from a long time; that he has not added any land to it; that when the tank is full his land will not be cultivated; but when the tank is not full the land will be cultivated; that although the land has been

note - Sotepovda is the father of Veerbhadra Gowda & Siddaji Gowda.

in cultivation from VS
long time it has not affected
the feeder of the tank, that
the land is as in the enjoyment
of the petitioner even before
Jaya year (i.e. 1934-35) & that
the Shanbhog says that
there is no ~~reason~~ danger
to the tank & therefore there
is no reason to dispossess
the occupant of his land.

The Hiduvalidars 24-5-66 —(1)
below the tank complained
that Bolegowda should
not be allowed to cultivate
the bed of the tank as
it deprives them of
water supply.

No 226 was a garden (2)
in the bed of the tank
& was in the enjoyment
of Bolegowda. But No 221
below the tank was given
to Bolegowda, the former
being a part of water-spread area.

Shanbhog in his report appa 29-9-66 —(3)
-rently taken before the Amildar
that No 225 was ~~not~~
not the land mentioned
by the complainants, i.e, Bolegowda

(4)$_7$ — 16-10-66 — No 225 is the bed of the tank, a corner of Dongarahalli, situated to the east of the disputed land.

(5)$_7$ — 11-10-66 — Irrigation of the lands of the village — By the cultivation of No 226 danger will be caused to the tank by Bolegowda. No 225 is to the east of No 226.

(6)$_7$ — 23-11-66 — Veerabhadra Gowda in ~~his~~ an enquiry before the Amildar stated as follows — That he understood that in Paridhavi year's account No 221 below the tank was given to him in lieu of No 226 in the bed of the tank, but that No 226 was in his enjoyment though without a Patta for the same.

(18)$_7$ — 23-11-66 — The Amildar of Kankanhalli reported as follows — That Bolegowda was given No 221 below the tank in lieu of 226 in the bed: but he seemed

to have enjoyed ∴ no 225 in the bed along with no 85 which belonged to him, in concealment for 15 years.

Thereon the Amildar was ordered to collect 15 years' assessment from Bolegowda.

Veerabhadra Gowda submitted two petitions to the Dy. Supt. to the following effect — { 1—2—1867 (9)7 ; 1—3—1867 (8)7

That nos 225 + 226 belonged to him from a long time; that no 226 was lying waste & that no 225 was under cultivation; that proper assessment might be levied on them; & that the depositions of his brother Chikkaveerabhadrappa — was not correct.

Shankarappa Subba- 14-2-67 — (15)7
Rao's statement was as follows — That no 225 was a piece of land close to no 226 which was a garden.

Bolegowda & Veera- 9—10—67 — (11)7
bhadra Gowda deposed as follows before the Amildar — That no 225 —

was in their possession from a long time & increased assessment was collected from them often on account of the increase of produce from the land; that their opponents misrepresented that no 226 belonged to the bed of the tank & that no 226 was Manyam.

(12) 7 — 28-11-67

The opponents of Bole gowda ~~Veerabhadrappa~~ deposed as follows — that the land that was resumed during the time of Amildar Ramaswamayya was again taken up for cultivation by Bolegowda & that the land was resumed on the ground that it was the bed of the tank.

(13) 7 — 28-11-67

Shanbhag subbayappa stated as follows — That no 225 was immemorial Manyam & was close to the land of Veerabhadra

(14) 7 — 28-11-67

Ramaiah Rao signed by Bolegowda & his deposition, states that

No 225 bore immemorial waste containing dongarkaila and scrub plants.

The Amildar reported that No 225 belonged to Veerabhadra Gowda. 10-1-68 — (19). Report No 304.

In Station Jadati Lekhta of 1860 & Jadati Lekhta of 1849 that No 225 is mentioned as Veerabhadra Gowda's sagu (land under cultivation) and No 226 as a garden in the bed of the tank. {1860 / 1849}

In the Aval accounts of 1852 that No 225 is stated to be Veerabhadra Gowda's field & No 226 garden in the bed of the tank. {1852}

M. V.

20/2/98

The questions which arise in the case for decision are

(1) What is the map number of the petitioner's land claimed (& in dispute) ?

(2) Has the land in question been in the enjoyment of the petitioner since the year 1853 ? or whether such is the case the land referred to in the records of 1865 & 66

(3) Is the land in question a portion of the bed of the tank?

These questions have been rendered unnecessarily complicated owing to the contradictory orders passed by the Jt Commissioners & the DJ Comm

Mr Raghunath Rao (at the time) held the land in question & that the map no of the land was 225 & had been in the enjoyment of the petrs since 1867

Mr Sarabai Kheyar (at the time) held that the land in question was the land of which petrs claimed & have been in enjoyment from 1867 & that it was part of the bed of the tank

Subsequently

9d

The Ag Comr (Mr Narasimhaiyar) directed with Mr Raghunatha Rao's findings on a report of the Amin that the land was part of the bed of the tank Cancelled his first order.

It appears that Sy No 225 has become part of Sy No 210 & that Map No 226 has become part of (Khanam) Sy No 234 — the bed of the tank.

The Sketches in the records are useless. A map showing the position of the tank, & the land in question & the contour line taken at the No di level would be useful.

From the land had been in the possession of the pet^{rs} since 1867. It is easy to find the land as absolutely intact. It has been subject to resumption at any time under para 10 of Rule ~~X~~ V of LR Rules & under the principle of Govt No 5770/R1 dt 15/10/74 (page 12 Rev Manual) (which applies to beds of breached tanks & portions (beds of tanks in addition).

Spoke to Amin & clear that Survey No 210 includes the bed No 225 & if the former has been cleared & cultivated, & is also in the occupancy of the pet^{rs} who have no objection to grant the pet^{rs} have it. If this fact is not clear get a sketch (as shown in your note)

12.3.98

A land admitted by Govt pet^{rs}

Pocket 2 Dy Comr

Calling for details from the Settlement Deputy Vasal Taluk

Fly 14/3/98 papers regarding Survey Nos 225, 226 & Sy Nos 210, 234

15/3/98

Fly 18/3/98

Docket No. 7650 / P. 1148 of 15-3-98

In pursuance of the 2nd Section of the Act of 12-3-98 the Secretary was called to submit a Petition praying the position of the village tank, the land in dispute, the land available for the purpose and the manner in which it should be taken and the land.

The Secretary was directed to send Subordinate Engineer the Settlement papers, Land Register and Field Book to ascertain the Superficial of the land in question and to the Meeting Survey No.

No. 1571 of 1st June 98.

The Secretary is directing the Petition and the Settlement papers state that the land in dispute is about the land.

The Head Clerk and the Land Records Inspector should be present.

Survey No. 11 containing 2-9 and containing 2-9 etc, 4 pieces land and 2 pieces land in

Survey No. 224 and 225 3

Survey No. 224 containing 1a-9g-24 sq and a certain garden land is in the holding of Plaintiff No. 1 and Survey No. 225 measuring 1a-9g of dry land and leasing are a pleasant appurtenance is in the holding of petitioners respondents.

The Sketch contains the following remarks:-

"The land in dispute (Survey No. 225) marked in red ink - 15 ft. above the Main level."

Survey No. 226 forming Survey No. 224 is tank, part thereof measuring 2a-18g.

× This is one of the questions to be decided by us

A good sketch of the land has been sub[mitted] by the applicants in the V. Roads.

As I have stated, the questions for decision are

(1) What is the survey number of the land in dispute claimed by the pet[itioner]?

(2) Has the land been in the possession of the pet[itioner] from 1867 as contended by him?

(3). Is the land in question a portion of the bed of the tank?

As regards question (1).

The Vasul Baki Account shows that map No 225 has become & a portion of S No 210 which is in the possession of the petr

So far therefore as the Settlement accounts go, the land in question is not map No 225 which was enjoyed by the petr from 1867

(There is a good deal of confusion in the record by taking it for granted that the land in dispute is map No 225)

This conclusion is strengthened by the ×finding of Mr Asst Comnr [illegible]

who found from the older account that the land in dispute was a portion

The asst. comnr quotes the survey entries by

× It is not clear to say which of these [illegible] the finding & the entries in the accounts [illegible] of previous date or whether the entry in the accounts was based on the asst. comnr's finding

of Mayl no 226 (equivalent
to S no 234) & had been
encroached upon by the pet^rs
under cover of enjoying
Mayl no 225 (≡ a portion of S no 210).
It will be seen from the Sketch
that S nos 210 & 234 are
adjacent.
The Asst Comr (Mr Narasimmayya)
was no doubt
wrong in Cancelling the order
of a previous Jamabandi Mra
but his finding seems correct.

As regards question (2)

There has been no direct
finding on this point by the
local officers but the candidates Krishna Rao
& Mr Raghunatha Rao
first found that the land was
Mayl no 225 & thence inferred
that the land has been enjoyed
by the pet^rs from 1867.
The Asst Comr Narasimmayya
has found that the pet^rs encroached
on the land in dispute but it is
not clear for how long he has been enjoying

As regards question (3)

The question arises only if it is found that the pet^r has been in enjoyment of the land in dispute from 1867

The Subordinate finds that the land is 1½ feet above the Kodr level but at the time settlement has been included in the tank-bed (Sno. 234).

11/7/95

On 14.9.95 the Pet^r was asked to produce all the pattas from 1867 to 68.

In reply the Pet^r produces the following pattas.

The patta for the year Prabhava to Pramoduta (1868 to 72)

His share that Raji is 225 measuring 4 Pallis was in the

holding of the Pattadar Bole Gauda
No assessment is shown against
it. The patta of the year the Ra-
jotpatti, 1871-72, also confirms
the same fact.
The patta of the year Bhava
which is in the name of Bole
Gauda's son Virabhadre Gauda
mentions that maji No. 225
measuring 4 Pkis and assessed
9 annas 4 pies was in Vira-
bhadre Gauda's enjoyment.
The pattas of 1879, 1882-87, 1887-92,
1884-85, 1888-89 & 1891-92 also
make mention of the same
fact.
The pattas of 1891-92 &
1897-98 are in the name
of the Petr Appaji Gauda
In the patta of 1897-98 maji
numbers are not given. It
includes S. No. 210 which is
said to be maji no. 225. At
present (according to the patta)
S. No. 210 measures 2 Gunthas
and bears an assessment of
12 annas.
In the pattas of 1868-71
& 1871-72. the land maji No.
225 is called Valagere
This description is not

× This is entered by the 2nd Comptroller as found.

incompatible with the
location of the land in S.No
210 (B) (the Survey Dept.) which
adjoins S.No 234, the tank-bed
Pet.r on the other hand
wants to locate the land
in the tank-bed itself.
In the Sketch prepared by the
Tank-Inspector & signed by
the amildar, map no 225
is located in S.No 234. This
is of course the very point
in dispute & seems to
have been approved
by the amildar whose
representation the Dy.Comm.r
Cancelled his previous order
holding that map no 225 was
a portion of S.No 234 (tank-bed)

Map explained by
the Dy.Comm.r in the
Amildar's presence.

4/11/98

P.T.O.

Survey Superintendent's No 356
dated 26th November 1898.

In regard to the question as to how maji No 225 was disposed of at the Survey Settlement the Survey Supt reports that on the opening of the Shanbhog's and gots at the time of measurement, the said maji number was recorded as forming part of Survey No 210, and as it was found at the settlement to belong to Appaji Gowda, it was entered in his name as part of Survey No 210.

Mdy 2/12/98

Sur. Supt. thinks that Appaji Gowda has encroached on Sy No 234 E

3/12/98

If there was encroachment it must have been in Sy No 226 and not 225

Maji No 225 was thought to have been an old jodi tank for more than 30 yrs. It has been lying apparently in this state from there. The No 225 was numbered as 55 as formed part of No 210 in 1866. Sub No 226 (not 225) has been part of Khanduga 223 and the bed of the tank. The [illegible] encroachment [illegible]

W 10339

40

a district of the locality would have helped us arrive at a decision of that case – & one might added now mention the Treaty of Waitangi & Ors

Note: This is a shed to the 1 Records but inaccurate

Mr Ogg for Appt Ward & Stafford

Mr Ogg for Resp

Appt Apparipo Fonda claims 225 Maps – 5 days this has come part of 210 Survey. I presume that the whole of 210 is in the occupancy of Apparipo Fonda – & there is no dispute as to.

The Survey raised is admittedly of a portion of 234 S. which I understand is classed as Kharab (bed of the Earth –) and it is reported that 226 has been included in this S. No. It must also be assumed that Apparipo Fonda has hedged off a portion of this Sur No and his contn is evidently that Maps 225 is in 234 & not in 210. Has he proved it? If so I do like to have a summary of the evidence bearing on the point. On the other hand Mr Hanson says he has seen no marks of cultivation there. The Act had only reds from which the rights thought that a portion of the bed had been newly fenced off at the time of the S. Settlement or in anticipation of it. If this finding is not opposed by any evidence adduced by Apparipo Fonda I think we are bound to uphold that finding agreeing as it does with the evidence of the S. Officers and their acts. We may leave it to Apparipo Fonda to show that 225 is a part of 234 & not 210. If he can we may take cognizance of the act of attempting to possess himself with a portion of S. 234 which is all Kharab and uphold the order appealed against that he do be evicted off

Maps 225 to be returned to the S.I. Counsel & if approved

Counsel informs above is right for Appt. Red Maps is to be returned when we both sent in.

14.12.98

44

circumstances the appellant is entitled to succeed and to have the possession and enjoyment of Sl. No. 2 including margin No. 225 in dispute confirmed.

E. For Secretary

This formed a part of the draft sent for approval. The draft not having been approved the other pages have been removed from the file

Draft
Ebn
10/12

To The Dy Comm^r, Bangalore Dt.,
returning the papers received
with his letter No. 15/18/1.6.28.

" The survey sketch in Duplicate.

Ebn
27/4/28.

Precis of R. appeal of Appaji Fonda, Patel of Dodkasadanahalli, Kankanhalli Taluk, Continued

In pursuance of the 1st and 2nd Councillors' orders of 17-12-98 the Deputy Comr was requested at this office Letter of 21-12-98 to inspect the lands personally in the presence of the appellant and the villagers, and to submit a correct sketch showing the Survey Nos & S. Nos.

The Dy Comr in submitting a sketch as requested reports:-

No 948 of 28-3-99

A

(1) That he inspected the lands in the presence of the appellant and the villagers when the Asst Comr Mr B. J. Komarappa Sanna Naik and the Amildar were also present.

(2) That Survey Nos 224 & 225 form S. No 210.

(3) That Survey No 224 (a part of S. No 210) is in the possession of Kadefonda and is clearly identifiable.

(4) That Survey No 225 (another

part of S. No. 240 forming its northern portion) is not so; that it was, at the time of the survey operations, in the occupancy of the appellant and borne in his name in the old accounts, and so it was treated as in his holding; that the appellant contends that the land marked A in the sketch measuring A 9 1-5 which lies in the north-east corner of the waterspread of the tank is the Map No. 225; but the Map No. 225 is returned in the old accounts as dry, and the land marked A is fit for bagayet or wet cultivation. and so, it could never have been a khushki;

that the appellant himself was unable to explain how the Map No. 225 shown as Khushki from year to year could have became the land marked A which is only fit for bagayet or wet cultivation; that there is also some discrepancy between the extent of the Map No. and that of the land

marked A; that the appellant says that a recognized share of S. No. 210 was never on his holding; that, from local enquiry, he (the Survey Commissioner) learnt that the appellant had leased the grazing of the piece of land to one Timma; that the appellant, at the time of the recent settlement, appears to have accepted the recognized share of S. No. 210 as the equivalent of map No. 225; that the land shown as map No. 225 appears to have never been cultivated which fact is set out in the report of the Amildar Seconi- dated 10-1-68 (No. 3044 of which is in the file) and that the ancestors of the petitioner seem to have been fined for their unauthorized cultivation of the land to the west of the map No. 225 (probably the whole or part of the land marked B)

But the reference shows that the Amildar was of opinion that the land No. 225 must be one that was under cultivation and not one which was waste

(5) That the appellant admits that map No. 226, which was in his holding was, in the Complaint of the villagers, resigned to the Sircar in 1852,

but that he contends that the
map No 226 was the land
immediately to the west of
the plot marked A which he
could not prove; that, from the
situation of the lands, he says
is led to think that map No 226
is the same or nearly the same
as land marked A, and not, as
the appellant says, the land to
the west of it, & that unless the land
marked A would not have been
allowed to remain in his possession,
if, as he says, it was the land
to the west of A that was relinquish-
ed by him, as it is open to
the objection, that its cultivation
would silt up the tank and
make it shallow.

(6) That the land marked A is
shown in the Contour map made
by D.P.W (No 27 in the file) to be
1½ feet above the Kodi level,
that is, it would be liable to
submersion when the Kodi dis
charges 1½ feet; that, from enquiry
made, he learns that not only
the land but even the Kovil to

the area of it would be submerged when the tank discharges extra quantity of water; that therefore he is of opinion that the land marked A should not be given for cultivation, but should continue to remain part of the tank-bed.

(7) That there are two factions in the village, the appellants faction supported by the Patel and the Shanbhog being the more influential and that the appellant has continued to cultivate the land for the past ten years in spite of orders not to do so. and,

(8) That as the dispute originated so long ago as 1866, there is no one who can speak from personal knowledge as to the exact position of the bunds Nos 225 and 226.

B. (Ex) With reference to the 2nd para of the office docket- of 7th January, 1919, which invites the attention of the 2nd Court to the sketch in the Records which states that the land

in dispute is part of Naqji No 235, whereas the finding in the proceeding is that it is part of Naqji No 236. The Dy Comr reports that the entry in the sketch in the R. Record is explained by the amildar to have been intended to show that the land in dispute was claimed in Naqji No 235 by the appellant.

C. With reference to the 3rd para of the docket under reply requesting the Dy Comr to report whether S. 210, shown in the accounts to belong to the appellant, is in his undisputed occupancy, the Dy Comr reports that the recognized share of S. No 210 (Naqji No 235) is borne in the khata of the appellant, who has, as above noted, leased the grazing of it to one of the villagers and is reaping the assessment thereon.

6/4/99

The present report which seems to have been carefully prepared in conformity of the finding of the V Warrant Officers Court

13/4/55.

11075

It is now clear from the Plan, Report and Sketch that the land in dispute forms a part of the Farm.

It is also clear that Survey No 214 Mrs Georgiana Survey N° 210 in Ashti Taluk.

There is no clear proof that the land in dispute which is in black originally formed part of Rajpet

The next land
case at Long Bittle
mere included in
the registered of the
Land Act in about the
Kodi Land. This a
portion of the
Plan, should continue
the part of the Tank
bed, and the cultivation
appeal to be prevented —

My only doubt is
whether under S 37
Land Act (1) the Govt
can be bound to renew
perpetuate of the Land
after the number has
and (2) for more than 30
years when in month's
tenure perpetuate Right
of the Land — But the Plan
may always prevent call[illegible]
by [illegible] for the [illegible] to
see [illegible] the Plan under - Subject to
my [illegible]

Sent to 2nd Council
14/4/99

7.30 Am.
14.4.99

(X) from this would I would
conclude as pleased if
affirmed by the S.C. Counsel

There is indeed
no evidence that this
land was ever cultivated
So long ago as 1852 the
land shown in the Sketch
as A & which probably was
the original No 226 was
awarded with admission
of the Pet^r, respondent's claim
and added on with Cultivated.
It has been urged that there
is beyond a doubt there is
no other indication of the
active exercise of ownership
and the land is said to be
overgrown with reeds.
Under all the circumstances of the
case the finding appealed
against seems to be correct and
the Pet^r must be held
not entitled to the legal
possession of the land in
dispute from which he was

been ordered the suited
Magee No 225 is also called
Valagore land and taking
advantage of the name the
appellant made an effort
to deceive by it with 226 &
obtain possession of it —
In this however he has
been found out.

The appeal must be
dismissed.

13484.

I agree with
my Colleague

Solicitor
1st Council
Plaintiff
Defendant
file was laid
by & great
delay was
allowed
to come

24. IV. 00

Draft Rec: Secretary
Bloem
27/4/00.

Ref'd 1st Commissioner
to 25.-00

189

No. 518

Name of Petitioner Appaji [illegible] Pates

Village [illegible]

Taluk [illegible]

District Bangalore

Date of Arzi 12-8-97

Date of Receipt 17-8-97

Date of Disposal

No. of Enclosure 1

ABSTRACT.

This is an appeal against the order of the D.C. dated 6-7-97 declining to grant the Kharab No 234 (Raji No 225) to the pet[r] for the purpose of cultivation and to fix the bounds and assessment on the same.

State that the pet[r] some time back applied to the Amildar for the fixing of the bounds for the Raji No 225 which had been in the enjoyment of the pet[r]'s family for over 60 years and for which

1. 26/8/97

Pet[r] filed a petition against the order of the D.C. in the Amildar's Court copy of which is filed in Land Copy of it which is filed

In pet[r]'s favour

28/8/97

Endl on pet[r]

29/8/97

2-9-97 The pet[r] under Encroachment

1) No time from date of order appealed against

2) Stamp sufficient

3) The order appealed does not appear to have proceeded upon any doubt as to the Boundaries of the land granted under Cowle No 225 (Raji No 225) to pet[r] and subsequently confirmed by this order - probably because the land formed a portion of the tank-bed but there appears also to have been differences on the question of [illegible] and encroachments are also [illegible] Two [illegible] 21/9/97

the Survey Dept. objected, at
the time of S. Settlement, to fix
the boundary on account of
a takarai brought by some of
the Petrs enemies to the effect that
the said Nos was within the water-shed
of the Lake.-

3 That the Arbitrator, after referring
to the records and becoming convinced
of the truth of the Petrs statement,
recommended favourably the Petrs case
to the Jamabandi officer of '93 who
on 29-[illegible] confirmed the rights
of the Petrs in the said Nos.- (vide remarks in the Takarai Exhibit)-

4 That the takarai was
appealed to the Dy Commr against the
order of the Jamabandi officer, whereupon
the Asstt Commr (Mr Narasimmiengar)
passed an order unfavorable to
the Petrs, which again necessitated
the latter's appeal back to the Dy Commr on 12-7-94;-

5 That Mr V. N. Narasimmiengar
thereupon cancelled the above order
of the Asstt Commr and thereby
confirmed the order of the Jamabandi officer
of '93;-

6 That, on the strength of this order,
when the Petr applied to the S. Supdt
for the fixing of the bounds he was
referred to the Arbitrator who, to the
Petrs surprise, told him through
an Interpr that the Dy Commrs order
was not in his favour,- and

That this 2nd order of the Dy Commr,
affirming the same officer's previous
order, is the one appealed against.

(In proof of genuineness of his claims
the Petr refers to certain papers in the records
[illegible] in the Exhibit)

"I Pray that the following
~~Sanct~~ Order No. 88, dt. 6-7-97,
of the Dy Commr, Bangalore
may be cancelled as it
contradicts the previous
order of the same officer
(Mr. V. N. Narasimmiengar), and
that Lands and assessment
may be fixed on this holding

=

D/Commr's Order appealed against

"Maji No. 225- to which you
wish to be entered as the Khata
-dar is clearly found to lie
within the water-spread of
the tank, to have never been
given (for any man) before,
and, what is more, to have
never been cultivated at
all. The Khanab No. 234
lying within the water-spread
of the tank cannot be
given to you."

Sd/ B. Ramakrishna
for
D/Commr.

Rs. 25/5/- (See Khanab No. 234)

~~Sanab No. 234~~

The [illegible] of the Land Thereby
[illegible]

EIGHT ANNAS

EIGHT ANNAS

MYSORE REVENUE OFFICE
PETITION DEPARTMENT
No. 5718

Bg. Book-Regd.
17-8-71
Issued to Shri
affixed.

A.S. No. 11 of 1971-72

(1) ...

(2) ...

(3) ...

(4) ...

(ب) [redacted] [redacted]

(ج) [redacted] [redacted]

(د) [redacted] [redacted]

(ه) [redacted] [redacted]

(و) [redacted] [redacted]

(ز) [redacted] [redacted]

(ح) [redacted] [redacted]

(ط) [redacted] [redacted]

(ي) [redacted] [redacted]

(ك) [redacted] [redacted]

(ل) [redacted] [redacted]

(م) [redacted] [redacted]

(ن) [redacted] [redacted]

(س) [redacted] [redacted]

(ع) [redacted] [redacted]

(ف) [redacted] [redacted]

(ص) [redacted] [redacted]

(ق) [redacted] [redacted]

(ر) [redacted] [redacted]

(ش) [redacted] [redacted]

(ت) [redacted] [redacted]

(ث) [redacted] [redacted]

(خ) [redacted] [redacted]

(ذ) [redacted] [redacted]

(ض) [redacted] [redacted]

(ظ) [redacted] [redacted]

(غ) [redacted] [redacted]

III

(9)

(10)

(11)

(12)

"Yours sincerely"

578 of 97 Rifers letter

Issued 15/9/97

Labouilled 16/9/97

Received on 15/9

59 (2) 1897

No. 770

Name of Petitioner Patel Appajigow

Village Doddaballapura Kelly

Taluk - Ranebennur

District Bangalore

Date of Arst 10-9-97

Date of Receipt 15-9-97

Date of Disposal

No. of Enclosure 2 and one previous petn

ABSTRACT

As directed in Govt Ord No 5
dated 13th September 1897 and
the petr to produce the orig
or an authenticated copy of
the 1st order of the Dy Comr
alluded to in the petn pa
begs to submit the Dy
dated 28th January 1897 whe
is directed the land in
dispute to be left in the
petr Appajigowda's peaceful
enjoyment as he had been
in possession of the land in
dispute -

Petr prays for perusal o
the order and this appeal pet
and for confirmation of
1st order now produced

No. 770

By post to Kagal
K.O 15-9-97
MK

60.

MYSORE DEWAN'S OFFICE
PETITION DEPARTMENT
REG'D. NO. 770 R
DATE 15-9-97

61 Pet 507 (3)

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

L. R. 93-94

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition No. 518 and 770 dated 12-8-97 and 10-9-97 respectively received at the Dewan's Office from Appagigowda, Patel of Dodda Sathenahally in the Kankanhalli Taluk, appealing against the order of the Dy. Comr. Bangalore declining to grant him Sharab land to the extent of 2·34 for the purpose of cultivating

is forwarded, together with its enclosures, to the Deputy Commissioner of the Bangalore District for submission of the entire proceedings connected with the case, together with a full report of the facts of the case, and on the points urged in the petition.

2. The petitions with its enclosures should be returned.

By order,

Chief Secretary.

BANGALORE,

12/13 1897

29/9/97

M.G.C.P.B.—25-4-95—1,000

1-98

Rept pmtd

21.1.98

(This report is silent
17/1/98 (as to the Govt Resolution
President) (dated 10th inst.)

24/1/98

Vandamacher

25.1.98

precis pmtd.

subject to F Comm's

11.2.98

18/2/98

Registr wdrawn

18.2.98.

(2)

Date
Rec'd 30 JAN 1898
189

From The Secretary to the Commissioner
of the 15 Gujarat Division

To The Secretary to the
Government of Bombay
Revenue Department

No. 824

Dated 10th January 1898

Despatched 11th January 1898

Received

General No.

No. 907.

Enclosure No. 2 files

Secretary's official
Letter to Govt No. 507 of 10th
October 1897.

Subject

Petition regarding the claim
of Sajjiapi Jamada,
Patel of Nadiad Sarkaradari
in the Kaira District
to land bearing Survey
No 225 in the said Town
Sarkaradari village

Petition
12/1/98

Bangalore, District
Jail Commissioner's Office
Camp Nandidrug, the
January 1898.

D. No. 907.
Surveyor Gl.

The Secretary to the
Government of Mysore
Revenue and General
Department.

Sir,

I am directed to forward herewith
memo No. 507/Est of the Chief Engr
calling for a report on the petition
of Bijjaji Gowda, Patel of Nandi
Kadavadalli in the Kasaba Hobli
Taluk, S. leg to state as follows:-

2. The petitioner claims land
bearing Survey No. 210 in the said
Nandi Kadavadalli village as his
whole share of his ancestral pre-
-scribed salary in part of the total
spread area of the land of the
village.

3. At the enquiry held [illegible]

it was decided by the Board of
Trade that Lord and his late
Deputy Commissioner refused to
give it to the petitioner. Hence
his appeal to Government.

4. The records connected
with the case and the evidence
of the witnesses under oath are
submitted.

I have the honor to be,

Sir,

Your most obedient Servant

W. Venkatasawmy

Dy Commissioner.

&

65 1898 (5)

From

The Secretary to Govt
Genl and Rev Depts

To

The Deputy Commissioner
L. R. Bangalore

Dated 16th March 98

Despatched 16-3-98

Received

General No. 8630.

P. No. 1148

Enclosure No.

The Dy Comrs letter No 507 dated 10th January 98 reporting on the petn of Appaji gowda of Doddasalavahally in the Kankanhalli Taluk.

In returning the records received with the above for reference and consideration I have the honor to request that you will be so good as to submit a sketch showing the position of the village in dispute, the land admittedly belonging to petitioner and the contour line taken with the Kodi level

+ 98-3-[illegible]
16-3-98

level.

The Dy Comm is also re-
-quested to send echas-
-trem the Settlement-papers (Vasal Baki 4Pt-Pahani)
Vasal Baki 4Pt-Pahani regarding to illustrate the equivalence
survey nos 225 and 226 of the map nos 225 & 226
& 215 and 234 of Kodikulam the existing survey numbers

By order

Dy Secretary

15/3/28

Submitted with precis continued

MM
13/6/98

Petition 4/6/98

Office Note
Dy Commr
4/6/98
17/6/98

"Claims respecting the occupation of waste land belonging to Govt" C.C.

Put for hearing
2 June 1898
4/7/98

(Register not available)

Petn 4-6-98 Appl C-98.

12 82

67 6 1897

REVENUE DEPARTMENT
Cr. No. 8826
JUN 6 1898
DEWAN'S OFFICE

From
The Dy. Commissioner, The Bangalore District.

To
The Secretary, The
Asst Commissioner
Assistant, Kept.
6/6.

Dated 1st
Despatched 2nd
Received

General No.
No. 1571

Enclosure No 1 file

Secretary Mokeel 15
8630 dated 16th March
Pet 1148
1898—

Submit Records in connection with the appeal of Ashaji Mode of Nandanahalli, Kankanahalli Taluk

Petition 4/6/98

Read 6/6

Refer petitioner

Asst Commr 6/6/98

W. M. Hawkins 7/6
Asst Commr
Bangalore 7/6

Bangalore District
by Commissioner's Office
Camp Shikarpur
15th June 1908.

No. 1571
Sir Hole
To

The Secretary to the
Government of Bombay
Revenue and General
Departments.

Sir,

With reference to
your docket No 3630 of the 16th
Feb 1908 I have the
honour to forward herewith
a Sketch showing the boundaries
of the said village Land, the
land in dispute and the contour
line taken at the Kadi level. It
will be seen from it that the
land in dispute is above the

Kodiak level.

2. Extracts from the Naval Battle and Port Arthur Statements prepared at the time of the Survey Settlement are also submitted as required.

3. The vernacular records connected with the case are resubmitted.

I have the honor to be,

Sir,

Your most obedient servant

W. Lauder Lindsay

by Commissioner

17-9-98

By Order

Secretary

Reference

13-10-98

24 22 897 Rh 12929 2-4-98

14-10-98

5-1879

Refers mutatis

15-10-98

18/10/98

The mfr contained in these patta shd be discharged in the prem

18/10/98

Attended to

31/10

Shd by 1st Council

Writ precis Cmte

4/11/98

10/12

Vide order

Vellan green

D/f

D/ 189 8

No. 812

Name of Petitioner Saml Stephen

Village Sa Esperanza

Taluk Cantonments

Dist Bangalore

Date of Arzi 4-10-98

Date of Receipt 10-10-98

Date of Disposal

No. of Enclosure 13

ABSTRACT

States that he submits the pattas for perusal as directed in Govt Order No. 5189 14-9-98 and prays that with reference to the entire records and the enclosed pattas equitable orders may be passed

CR 12-10-98

Enclosures

5 Pattas

Patta granted to Sriegans in 1868.

do do in 81

do Permanent grant in 1874

Patta granted to Venkatesegaudden for 1879

—do— do— for 1880-81

—do— do— for 1881-82

—do— —do— for 1884-85

—do— do— for 1888-89

—do— Bhoodé Sunda (illegible)

adopted son of Venkatesegaudden

for the year 1891-92.

—do— granted to Mhaji

uda alias Bhoodejunda

for the year 1897-98.

198

MYSORE DEWAN'S OFFICE
PETITION DEPARTMENT
RECD ON 8/12/28

73

[illegible]

[illegible]

[illegible]

[illegible] 67-68 [illegible]

[illegible]

[illegible]

[illegible]

[illegible] 4-10-98

[illegible]

Proceedings of the Govt of Bombay

75

(7)

Read the

[redacted] of appeal - S.C. 5/5
No. 7

of [illegible] Inspector [illegible]
Grade of Deputy Collectors in
Ramdurgh Taluk, against the
order of the Deputy-Commissioner
Bangalore District, rejecting the
appellant's claim to a grant of S.N.
234 of the above village

(2) The records received with
Letter No. 1571 dated 1st June 1895
from the Deputy-Commissioner
Bangalore District

The facts of the case are as
follows:-

In June 1892 Mota
and [illegible] other ryots of the Vill
Mallapta
submitted a petition to the [illegible]
Assistant Commissioner
Ramdurgh stating that the appellant
Appaji Yamaji had encroached
on Survey No. 225 which formed

Sub'd 6 pt Councillor

A statement of facts is given
The Survey Dept has located
Survey No. 225 - claimed by petr - in
S.No. 210 while the petr's own land is S.No. 210 while the petr's own land is
locate it in S.No. 234 (bed of
the tank) At the hearing I call
support the theory, the petr's State
that he was not in possession of
S.No. 210. The answer says that
the petr's has a special object in S.No.
234 inspite for pumasi cultivation
while S.No. 210 is not
As the Councillor wanted to have the
Kannada papers read to him, these
are read through a munshi

9/9/95

9833

Appeal against Summary
decision Collector 1568

14-9-95

Mod 14/9/95 Pd 14/9/95
Pd 12/11 Mod 12/11

that maji No 225, referred to by the appellant was a part of S. No. ~~225~~ 210 whereas the land in dispute was a part of S. No. 234 which formed the bed of the tank and as such was one which ought ~~was~~ not be granted to the ryot for cultivation that the survey accounts the appellant's accord to be correct & that the allegations were ~~unbelievable~~ not credible as they were made with a view to get the land in dispute which adjoins his S. No. 210 and is fit for kunaji cultivation. Thereupon the Deputy Commr ~~corrected~~ modified his former ~~order~~ order and directed the reservation of the land. Appaji Ganda has appealed to Govt against this order.

Order thereon:- No. 3312 dt. 12.11.98
P.T. 35-98

The questions for decision in this case are (1) What is the maji number of the land in dispute and claimed by the appellant (2) Was this land been in the possession of

unfit for cultivation and that the existence of reeds and other plants showed that the land in dispute formed a part of the tank bed. He accordingly held that the appellant had no claim whatever to this land and that at the survey it had been rightly included in the tank-bed.

On appeal by Gopala appellant that the land had been in his enjoyment since 1865. The Deputy Commr after perusal of the records held that there were no reasons to disturb the appellant's enjoyment and upheld Sri Raghunatha Rao's order in reversal of Sri Varadiengar's order. On the receipt of this order the Amildar, re-submitted the papers to the Deputy Commr with a report

A Appeal Panda appealed to the Dy Commr against the above order & urged that the land in dispute had been in his enjoyment since 1865

a part of the water-spread area of the village tank. In a petition submitted by the Amildar the Jamabandi Officer R.S. Raghunatha Rao ~~Reddy~~ held that the dispute had been disposed of so long ago as 1875 and that its revival appeared to be due to the survey boundaries excluding Inji No 225, ~~Inamdar~~ ordered that pending the survey settlement Appaji Gauda's possession should not be disturbed. On a further complaint of the villagers Mr. Asst Commr. Krishnamurthy inspected the spot in person and found that the land in dispute was not Inji No 225 but Inji No 226 which had been encroached upon and fenced by the appellant, that as it was a part of the bed of the village tank it had been classed as assessable at the survey, ~~and~~ that it was evident from the old records that Inji No 226 was a dry land ~~fit~~

unfit

The petition now produced by the Appellant complied with the report of the Surveyor No. 157 & 27.4.. Nor does that the land in dispute bore maji No. 225 and that it has been in the uninterrupted possession and enjoyment of Appaji Gauda and his father Bole Gauda from 1867 and even prior to that year. The allegation of encroachment therefore falls to the ground. Whether S. No. 210 or S. No. 234 includes maji No. 225 is not very clear. The fact remains that the land in dispute bearing maji No. 225 was in ~~appellants~~ appellants' possession at the time of Survey Settlement. The papers are therefore forwarded to the Supt of ~~Revenue~~ Survey in Nagpore for a very early report as to how maji No. 225 was disposed of at the Survey Settlement and whether it was included in S. No. 210 which is one of the numbers in the appellants' patta or in

in S. No. 234.

80

For Secretary

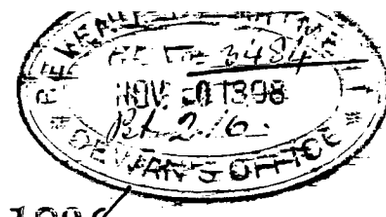
Off
Ben
12/1/98.

To The Superintendent of Revenue Survey in Mysore with records.

D.T. 55 of 98. relating to the Appeal of Cyclapi Gowda & others

(10)

1 81



1898

AK
1-12-98

Subd & 1st Counsellor
with pleasure

Mff
2/12/98

Ag 3/12/98

1024 1 a/b

Vide adm
below pmi

AM
4/12/98

Ag
5/12/98

The Chief Secretary to the
Govt. of Mysore.

Bangalore.

26th November 1898.

Enclosure No. one packet

No. 356

SUBJECT

References (to be entered only in the n's Office).

Peta
29.11.98

1-12-98

Read 30/11/98

No. 356

Survey Superintendent's Office
Bangalore 25th November
1898.

To

The Secretary to the
Government of Mysore
Genl and Rev Depts.

Sir,

I have the hon to —
return the papers received with
Government Proceedings Order
No 3312 / Pet 735-98 dated 12th November
1898, relating to Appaji Gowda
appeal against the final order
of the Deputy Commissioner —
disallowing his claim to a —
portion of Survey No 234 of the
village Doddasandenahalli —

Kankanhalli

Kankanhalli Taluk.

2 Maje No 225 was recorded at the time of measurement on the showing of the Shanboque and Ryots as forming part of Survey No 210. It is also shown as part of Survey No. 210 in all the Settlement papers. In my opinion Appaji Gowda has been guilty of encroachment upon Survey No 234 which is a Government tank. Maje No 225 was found at the settlement to belong to Appaji Gowda and was entered in his name as part of Survey No 210.

I have the honor to be

Sir

Your most obedient servant

Your most obedient servant

H. Smith

Supt. Mysore Rev. Survey.

(11) 1898 85

From

The Secretary to Govt
Genl and Rev Depts

To

The Deputy Comr
L R D Gadag Dt
82

Dated 7th

Despatched 9th Jany 1899.

Received

General No. 4627
R. C. No. 35-98

Enclosure No.

The Dy Comr's letter No 1571 dated 1st June 1898, submitting the records relating to the appeal of Appaji gowda of Doddasadanahalli in the Kankanhalli Taluk.

In returning the papers received with the above, for reference and re-submission, has the honor to request that he will be so good as to inspect the lands personally in the presence

Appl Enquiry
Reports
7-1-99

of the appellant and the villagers and Submit a Sketch within three weeks, showing the Map Nos and present S. Nos of the lands in question

By order

C1
C2
17.12.98.

for Secretary.

3.1.99

The Sketch in the V Record Signed by the amildar of the taluk states that the Land in dispute is part of Map No 225 whereas the finding in the proceedings is that it is part of map no 226.

The Commr is further requested to report whether S No 210 shown in the accounts to belong to Appaji Gowda is in his undisputed occupancy, Appaji Gowda Appaji Gowda having stated at the hearing before the council that he was not in possession of it

By

Subd to 1st Council Mtg (12)

Precis Cntd

7.4.99

13/4/99.

REVENUE DEPARTMENT
Gl. No. 6037
R 0 199
Ref. No. 379 1899

87

From Commissioner Bangalore City

To The Secretary to the Govt of Mysore

Dated 26th December 1898

Despatched 28th " "

Received 8th March 1899

General No.

No. 948.

Enclosure No. 1 Statement
Ver. file

Lrs Sec 627 of 35-9.97-7 Jany 1899 —

Report regarding the appeals against assessment of Mohalla, Kanthamballi Taluk —

Rec'd
30/3/99

Rec'd
1/4. Gf 35-J 1898 containing the rep: is put up.

AK
3.4-99

Mr Krishnamachar
Cmr's report
4/4/99

Precis Cntd
WM 6/4/99

Bangalore District
Deputy Commissioner's office
Dated Kankanhalli
26th March 1879

D. No. 948
Encl 1 Sketch
& Vernacular Papers

To
The Secretary to the
Government of Mysore
General & Revenue Depts.

With reference to your No:
4687
P.T. 35 '78 of the 7th January last, calling
for certain information re the appeal
of Appaji Gowda of Doddakankanhalli,
I have the honor to report that I inspected
the lands on the morning of the 24th instant
in the presence of the appellant Appaji
Gowda and the villagers. The Assistant
Commissioner in charge of the taluk
Mr B. J. Kumaraswami Naik, and the
Amildar were also present.

I enclose a sketch showing

According to the Survey Settlement

No:	class	Kandayam	Remarks Showing the kind of cultivation &c	No	class	Extent	Rate per acre	Assessment	Remarks Showing the kind of cultivation &c
						acre	Gunta	Rs as ps	
224	Dry	6½ Kuzhis	Rage	210 Kandayam	Dry Sukkan	1	24	1 3	Paddy, Cumbu, Korram & Cotton trees
225	Dry	1 Kalam	Rage	210 Kandayam	Dry	2	35	2 4	Waste

Showing the maji nos: and the present Survey numbers of the lands in question.

3. It will be seen from the Sketch that maji nos: 224 and 225 form Survey no: 210. The details of the nos: are given in the margin.

4. Maji no: 224, part of Survey no: 210 has always been in the possession of its present occupant Kadigowda. This land is defined by a hedge all round and is easily identifiable. The Cyavari of the maji no: nearly corresponds with the acreage of the kb no: as determined at the Survey settlement. There is thus no question about the exact position of maji no: 224

5. The same cannot be said of maji no: 225. As it was in the occupancy of the appellant and was borne in his name in the old accounts, it was, at the time of the Survey operations, treated as in

in his holding. It forms the northern portion of Survey No: 210 as marked in the Sketch. The Cent as found at the time of Survey is nearly 4 times the Cijavari of the Naji No: 225. I must here state that the Cijavari and the Kandayam of this Naji No: appear to have fluctuated in some years according to the kind of cultivation made in it; but for the past 24 years the Cijavari and Kandayam above shown appear to have remained stationary. We may therefore assume these particulars as being correct for the present purpose

6. The Appellant contends that the land marked A which lies in the north-east corner of the water spread of the tank and measures 1-5 acre Guntas is the Naji No: 225. There are some fatal objections to this contention. Naji No: 225 is returned in the Hd accounts as a Khushki No:. The land marked A could never have been a Khushki

khushki no: it being a mattery fit for
bagayat or wet cultivation. The appellant
himself is not able to explain how the maji
no: 225 shown as khushki from year to
year could have become the land marked
A which is only fit for garden or wet
cultivation. Further there is a variation
ereparcy between the extent of maji no:
225 and that of the plot marked A. The
appellant says that the recognized share
of Survey no: 210 was given in his holding
and enjoyment from local enquiry I
learnt that he has leased the grazing
of this same piece of land to one Thimmiah
for Re 1/- per annum. I confronted this
man Thimmiya with the appellant here
-in the appellant at the time of the recent
settlement appears to have accepted the
recognized share of Survey no: 210 as the equi
valent of maji no: 225. The land shown
in the sketch as maji no: 225 appears
to have never been cultivated. This is borne

[illegible] Then why
[illegible] Patel [illegible]
[illegible]

[illegible] the new [illegible]
[illegible] [illegible]
[illegible]

out by a report no: 304 dated 10-1-1868 made by the then Amildar Sreeniva-sa Rao, a copy of which is in the file. The appellants forefathers seem to have unauthorizedly cultivated the land to the west of maji no: 225 (probably the whole or part of the plot marked A) and been punished for the same by fines.

7. The appellant admits that maji no: 226 which was in his holding was, on the complaint of the villagers, resigned to the Sarkar in the year 1852 and that he was given maji no: 221 (Sur no: 197) in exchange. He however contends that the maji no: 226 was the land immediately to the west of the plot marked A, although he is unable to furnish any proof in support of such contention. On the other hand there is reason to think that the plot marked A was the whole or part of maji no: 226 shown in the old accounts as "Valagere Shahatul bita" (the mulberry garden

garden in the bed of the tank. In the Settlement
Khadki Talukta of 1849, map no: 226 is
shown as lying immediately to the west
of map no: 225. This would make map
no: 226 or the greater part of it, correspond
with the plot marked A. The watercourse
which feeds the tank runs right through
the land which is claimed to be map no:
226 by the appellant. Such a land would
be unfit for mulberry cultivation being
always liable to have sand deposited
by the inrush of water besides being liable
to submersion during heavy rains. From the
appearance and situation of the lands and
in the absence of proof to the contrary, I
am inclined to think that map no: 226
is the same or nearly the same as land
marked A and not the land to the west
of it as alleged by the appellant.

8. Another point to be considered is
that, if as stated by the appellant the land
to the west of A were the one which he was
made to relinquish on the complaint of the
villagers, the land marked A would scarcely

scarcely have been allowed to remain in his possession, as it is open to the same objection, viz, that its cultivation would silt up the tank and make it shallow.

9. The land claimed by the appellant has been, during the Survey, included in the water spread of the tank. From a contour map made by the D. P. W., which is in the file, it will be seen that the land marked A is 1½ feet above the kodi level, i.e., it would be liable to submersion when the kodi discharges 1½ feet. From my local enquiries, I learn that not only this land, but even the land to the north of it will be under water when the kodi surplusses. I am therefore of opinion that apart from the merits of the case, the plot marked A should continue to be part of the tank bed and never be given out for cultivation.

10. There are two factions in the village, the appellant's faction supported by the patel and the Shanbhog, being the more influential

of the two. The appellant has, in spite of orders, continued to cultivate this land for the past few years with sugarcane and other valuable crops.

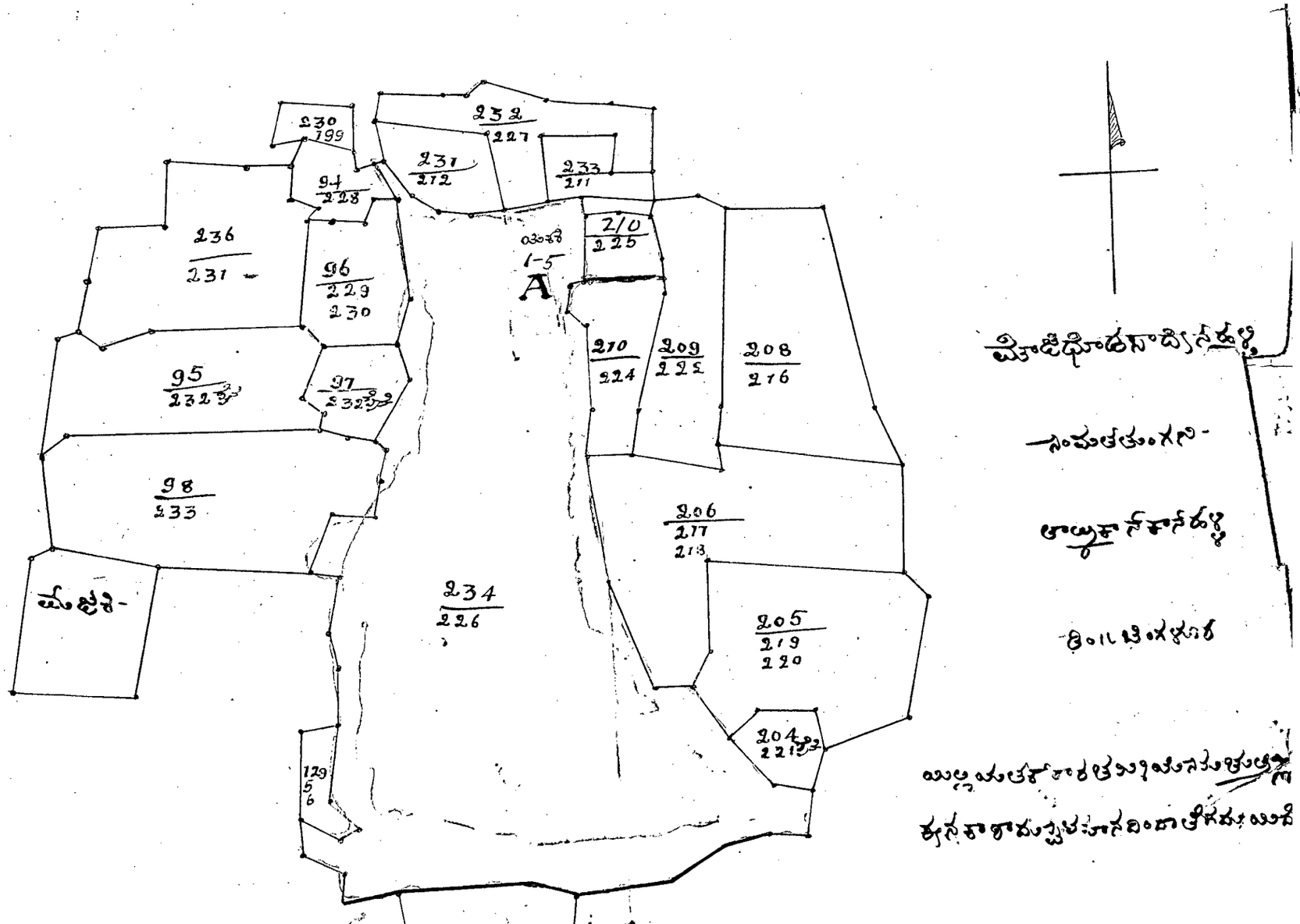
The dispute is of a very old date, having originated in the year 1866 i.e. 33 years ago. There is no one now living who can speak from personal knowledge as to the exact position of Maps Nos: 225 & 226

12. With regard to para 2 of your docket under reply, the appellant claims that the entry in the Sketch in the vernacular records, signed by him was intended to show that the land in dispute was claimed as Map No: 225 by the appellant

13. With reference to the enquiry in para 3 of the docket, the encroached shed of Survey No: 210 (Map No: 225) is borne in the Khata of the appellant as Map Gowda who, as already remarked in para 6, supra, has leased the grazing of it to one of the villagers and is paying the assessment on this land.

beg to return the whole of the
records relating to the appeal.

I have the honor to be
Sir,
Your most obedient Servant
W. Whitehead
Deputy Commissioner
Bangalore District


230
199
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232ಪೈ2
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ಮೋಡಿಧೂಡುಗಾದ್ಯನಕೆರೆ
ನಂಮತತುಂಗನಿ-
ಆಲ್ಕುಕನಕಾನಕೆರೆ
ತಿಂಟಿತಿಂಗಳೂರ

(1) Figures in black with thus
survey numbers.

(2) Figures in red with thus
old or maji numbers

25/3/99

Kanthanavalli

Amildar

Scale
1 inch = 40 chains of 33 feet long.

Attested

Dy Commissioner
Bangalore Dist.
25th March 1899.

(13)

[illegible]

100

(14)

Privy Council of the Court of Mysore

Appt - Nijaji Gowda of Doddacabinhalli, Kankanhalli Taluk.

Read:-

Petn & Appeal No 518 of 1898-99, praying that Nijaji Gowda of Doddacabinhalli village, Kankanhalli Taluk, against the order of the D.C. Bangalore dtd [illegible], rejecting his claim to a portion of S. No 234 forming the bed of the village tank.

(2) Correspondence ending with letter No 943 dtd 26th March 1899 from the D.C. Bangalore dist, reporting on the above and submitting a sketch of the land in dispute.

(3) The records of the case.

The facts of the case are as follows:-

In June 1892 Motabole Gowda and other ryots of the village complained to the Amildar that the appt had encroached on a portion

Draft for appt
Sd 5th March
by 30/4/00

13503

Grant as prayed
1. 5. 1900

Draft for appt
by 1/5/00

of the waterspread of their village tank. On a report submitted by the Circle Inspector, Mr G. Raghuma the Hon. observed that the land in question was survey No 225 in the enjoyment of Appaji Gowda since 1868, that the present complaint appeared to be due to the survey boundaries, of survey No 225 having excluded the portion cultivated by Appaji Gowda and ordered on 27-6-93, that pending the survey settlement Appaji Gowda's possession should not be disturbed.

On a further complaint of the villagers the Asst Commr Mr Narasimmaiya visited the spot in person and found that the land encroached upon and fenced by Appaji Gowda was not survey No 225 but survey No 226, that as it was part of the village tank bed had been classed as unarable - the survey, that it was

evident from the old accounts of 1849, 1855 & 1952 that Khasra No 225 was a dry land unfit for wet cultivation and that the existence of reeds and other plants showed that the land in dispute formed a part of the water spread of the tank. We accordingly ordered, on 25-4-94, that the applts had no claim whatever to the land and that, at the survey, it had been rightly included in the tank bed.

3. Appraj Gonds appealed to the Dy Commr against the above order and urged, inter alia, that the land had been in his enjoyment ever since 1863. The Dy Commr, after perusal of the records, held that there were no reasons to disturb the applts long enjoyment and upheld

4. Rajkumattas Rent order,

in the record of Mr Narasimmayya's
order. On receipt of this
order, the Amildar resubmitted
the papers to the Dy Asst
with a report that the land
Survey No 225 referred to in
the account as in the ~~East~~
Khata of the applts' was a
part of S. No 210 whereas
the land claimed by him
was a part of S. No 224
which formed the bed of
the tank and as such was
one which ought not to
be granted to him for
cultivation, 2nd that his allegations
were not credible as they
were made with a view
to get the land in dispute
which adjoins his S. No 210
and is fit for Survey cultiv-
ation. Thereupon, the
Dy Asst modified his
former order and
directed

directed the reservation of the land. In reporting on the appeal petition, the Dy Comm^r states that S. No 210 comprising Maji No 225 is in the appellant's Khata and enjoyment and that there is no proof that the land in dispute was ever Maji No 225.

1887-94
No. E.F. 35-98 } 5.5.00

Order thereon

It is now clear from the Dy Comm^r's report and sketch that the land in dispute forms a part of the bed of the tank.

2. It is also clear that Maji No 224 & 225 comprise S. No 210 in appt's Khata.

3. There is no clear proof that the land in dispute, marked A in the sketch, originally formed part of Maji No 225

4. The said land was at the Survey settlement

included in the watershed of the tank and it is above the Kodi level. This land, as pointed out by the Dy. Comm^r., should continue to be part of the tank bed, and its cultivation ought to be prevented. There is indeed, no evidence that this land was ever cultivated. So long ago as 1852, the land shown in the sketch as A and which probably bore the original survey No. 226 was, according to the admission of the Petr., resigned by him and added on to the tank bed. It has been reported that beyond a hedge there is no other indication of the actual Exercise of ownership and the land is said to be overgrown with weeds

(14) 10

1899-1900

GOVERNMENT OF MYSORE

PETITION

PROCEEDINGS

Dated 5th May 1900

No. 7887-94 / P. F. 35-98

Dismissing the appeal of Appajigauda of Doddasadenahalli, Kankanhalli Taluk, against the order of the Deputy Commissioner, Bangalore District, rejecting his claim to a part of Survey No. 234 forming the bed of the village tank.

S.B.P.—16-5-1900—200

Appellant.

Appajigauda of Doddasadenahalli, Kankanhalli taluk.

READ—

Petition of Appeal No. 518—A. S. 79 of 97-98, presented by Appajigauda of Doddasadenahalli village, Kankanhalli taluk, against the order of the Deputy Commissioner, Bangalore district, rejecting his claim to a part of Survey No. 234, forming the bed of the village tank.

(2) Correspondence ending with letter No. 942, dated 26th March 1899, from the Deputy Commissioner, Bangalore district, reporting on the above and submitting a sketch of the land in dispute.

(3) The records of the case.

—

The facts of the case are as follows :—

In June 1892 Motabolegauda and other raiyats of the village complained to the Amildar that the appellant had encroached on a part of the waterspread of their village tank. On a report submitted by the Amildar the Jamabandi Officer, Mr. G. Raghunatha Rao, observed that the land in question was maji No. 225 in the enjoyment of Appajigauda since 1868, that the present complaint appeared to be due to the survey boundaries of maji No. 225 having excluded the portion cultivated by Appajigauda and ordered, on 27th June 1893, that pending the survey settlement Appajigauda's possession should not be disturbed.

2. On a further complaint of the villagers, Assistant Commissioner, Mr. Narasimmaiengar, inspected the spot in person and found that the land encroached upon and fenced by Appajigauda was not maji No. 225 but maji No. 226, that as it was a part of the village tank bed it had been classed as unarable at the survey, that it was evident from the old accounts of 1849, 1850 and 1852 that maji No. 225 was a dry land unfit for wet cultivation and that the existence of reeds and other plants showed that the land in dispute formed a part of the waterspread of the tank. He accordingly ordered, on 25th April 1894, that the appellant had no claim whatever to this land and that, at the survey, it had been rightly included in the tank bed.

3. Appajigauda appealed to the Deputy Commissioner against the above order and urged, *inter alia*, that the land had been in his enjoyment ever since 1868. The Deputy Commissioner, after perusal of the records, held that there were no reasons to disturb the appellant's long enjoyment and upheld Mr. Raghunatha Rao's order in reversal of Mr. Narasimmaiengar's order. On receipt of this order, the Amildar re-submitted the papers to the Deputy Commissioner with a report that the land maji No. 225 referred to in the accounts as in the khate of the appellant was a part of Survey No. 210 whereas the land claimed by him was a part of Survey No. 234 which formed the bed of the tank and as such was one which ought not to be granted to him for cultivation and that his allegations were not credible as they were made with a view to get the land in dispute which adjoins his Survey No. 210 and is fit for punaji cultivation. Thereupon, the Deputy Commissioner modified his former order and directed the reservation of the land. In reporting on the appeal petition, the Deputy Commissioner states that Survey No. 210 comprising maji No. 225 is in the appellant's khate and enjoyment and that there is no proof that the land in dispute was ever maji No. 225.

No. 7887-94—P. F. 35-98, DATED BANGALORE, 5TH MAY 1900.

ORDER THEREON—It is now clear from the Deputy Commissioner's report and sketch that the land in dispute forms a part of the bed of the tank.

2. It is also clear that Maji Nos. 224 and 225 comprise Survey No. 210 in appellant's khate.

3. There is no clear proof that the land in dispute, marked A in the sketch, originally formed part of Maji No. 225.

4. The said land was at the survey settlement included in the waterspread of the tank and it is above the kodi level. This land, as pointed out by the Deputy Commissioner, should continue to be part of the tank bed, and its cultivation ought to be prevented. There is, indeed, no evidence that this land was ever cultivated. So long ago as 1852, the land shown in the sketch as A and which probably bore the original Maji No. 226 was, according to the admission of the petitioner, resigned by him and added on to the tank bed. It has been reported that beyond a hedge there is no other indication of the active exercise of ownership and the land is said to be overgrown with reeds.

5. Under all the circumstances of the case, the finding appealed against seems to be correct and the petitioner must be held not entitled to the legal possession of the land in dispute from which he has been ordered to be evicted. Maji No. 225 is also called valagere land, and, taking advantage of the name, the appellant made an effort to identify it with Maji No. 226 and obtain possession of it. In this, however, he has been found out.

6. The appeal must be dismissed.

C. SREENIVASIENGAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Deputy Commissioner, Bangalore District, with records and sketch.
The Deputy Commissioners of other Districts.

Dxd.—H.A.R.